



441 G St. N.W.  
Washington, DC 20548

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August 12, 2019

The Honorable Pat Roberts  
Chairman  
The Honorable Debbie Stabenow  
Ranking Member  
Committee on Agriculture, Nutrition, and Forestry  
United States Senate

The Honorable Collin Peterson  
Chairman  
The Honorable K. Michael Conaway  
Ranking Member  
Committee on Agriculture  
House of Representatives

Subject: *Department of Agriculture, Commodity Credit Corporation: Trade Mitigation Program*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Agriculture, Commodity Credit Corporation (CCC) entitled "Trade Mitigation Program" (RIN: 0560-AI51). We received the rule on July 25, 2019. It was published in the *Federal Register* as a final rule on July 29, 2019. 84 Fed. Reg. 36456. The effective date of the rule is July 29, 2019.

The final rule implements a Trade Mitigation Program (TMP) for producers of 2019 agricultural commodities that have been significantly impacted by trade actions of foreign governments resulting in the loss of exports. TMP includes a Market Facilitation Program (MFP) and an Expanded Domestic Commodity Donation Program (EDCDP). The rule specifies the eligibility requirements, payment calculations, and application procedures for MFP. The rule also specifies disposition of surplus commodities through outlets not currently used in existing Food and Nutrition Service programs, including the application process, eligibility rules, and award process for EDCDP. CCC plans to announce the details for specific commodities and conditions in applicable notices of commodity availability.

The Congressional Review Act (CRA) requires a 60-day delay in the effective date of a major rule from the date of publication in the *Federal Register* or receipt of the rule by Congress, whichever is later. 5 U.S.C. § 801(a)(3)(A). However, the 60-day delay in effective date can be waived if the agency finds for good cause that delay is impracticable, unnecessary, or contrary to the public interest, and the agency incorporates a statement of the findings and its reasons in the rule issued. 5 U.S.C. § 808(2). CCC found that notice and comment procedures for this final rule are contrary to the public interest due to the nature of the rule and the need to

expeditiously provide assistance to agricultural producers. Therefore, CCC concluded it is not required to delay the effective date for 60 days from the date of publication.

Enclosed is our assessment of CCC's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Janet Temko-Blinder, Assistant General Counsel, at (202) 512-7104.

signed

Shirley A. Jones  
Managing Associate General Counsel

Enclosure

cc: Mary Ann Ball  
Farm Production and Conservation Business Center  
Department of Agriculture

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE  
ISSUED BY THE  
DEPARTMENT OF AGRICULTURE,  
COMMODITY CREDIT CORPORATION  
ENTITLED  
“TRADE MITIGATION PROGRAM”  
(RIN: 0560-AI51)

(i) Cost-benefit analysis

The Commodity Credit Corporation (CCC) included a summary of its cost-benefit analysis in this final rule. CCC estimates that for the Trade Mitigation Program (TMP), Market Facilitation Program (MFP) payments will total up to \$14.5 billion and purchases of surplus commodities and food products will total up to \$1.4 billion. The payments and purchases represent benefits to producers, which is the cost to the government for TMP.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603-605, 607, and 609

CCC determined that this final rule is not subject to the Act because CCC found it was not required to publish a proposed rule.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

CCC determined that this final rule contains no federal mandates that would result in expenditures of \$100 million or more in any one year for state, local, or tribal governments, in the aggregate, or to the private sector.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551*et seq.*

The Administrative Procedure Act provides that the notice and comment and 30-day delay in the effective date provisions do not apply to the extent that there is involved “a matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts.” 5 U.S.C. § 553(a)(2). CCC asserts in this rule that because the rule governs the program for payments to certain agricultural commodity producers, it falls within this exemption as it relates to benefits. CCC also found that notice and comment procedures for this final rule are contrary to the public interest due to the nature of the rule and the need to expeditiously provide assistance to agricultural producers.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501-3520

CCC determined that this final rule contains information collection requirements under the Act. CCC submitted the information collection requirement that supports MFP to the Office of Management and Budget (OMB) for emergency approval, which OMB granted for 6 months.

This information collection requirement will be merged with that under OMB Control Number 0560-0292.

Statutory authorization for the rule

CCC promulgated this final rule under the authority of sections 714b and 714c of title 15, United States Code.

Executive Order No. 12,866 (Regulatory Planning and Review)

OMB designated this final rule as economically significant under the Order and reviewed the rule.

Executive Order No. 13,132 (Federalism)

CCC determined that this final rule will not have any substantial direct effect on states, on the relationship between the federal government and the states, or on the distribution of power and responsibilities among the various levels of government, except as required by law.